

First-tier Tribunal Health, Education and Social Care Chamber (Mental Health)

Guidance notes for applications and referrals

What's the definition of 'Responsible Authority' or 'Hospital Managers'?

In relation to a patient detained in a hospital under the Mental Health Act 1983 this usually means the responsible Primary Care Trust, Strategic Health Authority, Local Health Board, Special Health Authority, NHS Trust or Foundation Trust or, if the hospital is a non-NHS registered establishment, the person or persons registered in respect of the establishment.

In relation to a community patient (unless responsibility has been assigned elsewhere) this usually means the Trust, Authority or Board for the hospital where the patient was liable to be detained immediately before the Community Treatment Order was made.

In relation to a patient subject to guardianship, the Responsible Authority will be the responsible local authority social services department.

When must Hospital Managers refer non-restricted cases to the tribunal?

This duty applies to:

- a. a patient who is admitted to a hospital for a S.2 assessment; or
- b. a non-restricted patient who is admitted to a hospital for treatment; or
- c. a community patient; or
- d. a patient whose community treatment order (CTO) is revoked under section 17F; or
- e. a patient who is transferred from guardianship to a hospital.

What are the time limits for referrals of non-restricted patients¹?

When a CTO is revoked under section 17F, the Hospital Managers must, under S.68(7), refer the case to tribunal **as soon as possible after the order is revoked**.

Otherwise, the Hospital Managers must refer the patient's case to the tribunal **at the end of six months beginning with 'the applicable day', unless, during that period:**

- a. a previous application to the tribunal has been made² by or in respect of a patient admitted for treatment, or by a community patient on a CTO, or by a patient recalled or transferred back to hospital from a CTO or a Guardianship Order; or
- b. a reference has been made in relation to a non-restricted patient by the Secretary of State (except a reference made for a patient admitted to a hospital for a S.2 assessment); or
- c. a S.68(7) reference has been made following the revocation of a CTO.

¹ A tribunal has no jurisdiction to deal with a referral made too early, so Hospital Managers must check the time limits before referring a case to the tribunal.

² A person who applies to a tribunal but subsequently withdraws his application must be treated for these purposes as *not having exercised his right to apply*, and if he withdraws his application on a date after the expiry of the six month period, the managers must refer the patient's case as soon as possible after that date.

What is the ‘applicable day’?

- a. for a S.2 patient – it is the day on which the patient was admitted;
- b. for a non-restricted patient admitted to a hospital for treatment – it is
 - (i) the day on which the patient was so admitted; or
 - (ii) if, when he was so admitted, he was already liable to be detained under S.2, the day on which he was originally admitted under S.2.;
- c. in the case of a community patient, or a patient whose CTO is revoked under section 17F above, - it is the day mentioned in (b)(i) or (b)(ii) above;
- d. in the case of a patient who is transferred from guardianship to a hospital - it is the day on which he was so transferred.

What happens after that?

The Hospital Managers must also refer the patient’s case to the tribunal if a period of more than three years (or, if the patient has not attained the age of 18 years, one year) has elapsed since his case was last considered by a tribunal.

Completed forms should be sent by secure email to:

tsmhapplications@hmcts.gsi.gov.uk or by first class post to:

HM Courts & Tribunals Service
First-tier Tribunal (Mental Health),
PO Box 8793,
5th Floor,
Leicester
LE1 8BN.

Please do not submit the form more than once.